

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,
as representative of

THE COMMONWEALTH OF PUERTO RICO *et al.*,
Debtors.¹

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,
as representative of
PUERTO RICO ELECTRIC POWER AUTHORITY,
Debtor.

PROMESA Title III
No. 17 BK 3283-LTS

(Jointly Administered)

PROMESA Title III

No. 17 BK 4780-LTS

(This court filing relates only to
Case No. 17 BK 4780-LTS)

**UNOPPOSED URGENT MOTION OF PUERTO RICO FISCAL AGENCY AND
FINANCIAL ADVISORY AUTHORITY AND PUERTO RICO ELECTRIC POWER
AUTHORITY FOR LEAVE TO FILE SUR-REPLY TO OMNIBUS REPLY OF
OFFICIAL COMMITTEE OF UNSECURED CREDITORS IN SUPPORT OF URGENT
(I) OBJECTIONS TO MAGISTRATE JUDGE'S AUGUST 2, 2019 ORDER ON MOTION
TO COMPEL AND (II) ALTERNATIVE MOTION TO STRIKE AND TO EXCLUDE
OUT-OF-SCOPE DECLARATION TESTIMONY AND RELATED EVIDENCE [ECF
1602]**

¹ The Debtors in these Title III cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's Federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

To the Honorable United States District Court Judge Laura Taylor Swain:

The Puerto Rico Fiscal Agency and Advisory Authority (“AAFAF”) and the Puerto Rico Electric Power Authority (“PREPA”)² respectfully submit this unopposed urgent motion, pursuant to Section III.L of the *Tenth Amended Notice, Case Management and Administrative Procedures* [Case No. 17-03283, ECF No. 8027-1] (the “Case Management Procedures”), for leave to file a one-page sur-reply (the “Sur-Reply”) to the *Omnibus Reply of Official Committee of Unsecured Creditors in Support of Urgent (I) Objections to Magistrate Judge’s August 2, 2019 Order on Motion to Compel and (II) Alternative Motion to Strike and to Exclude Out-of-scope Declaration Testimony and Related Evidence* [ECF 1602] (the “Omnibus Reply”), which was filed by the Official Committee of Unsecured Creditors of all Title III Debtors (other than COFINA) (the “Committee”). In support of its motion for leave, AAFAF and PREPA respectfully represent as follows³:

JURISDICTION AND VENUE

1. The United States District Court for the District of Puerto Rico has subject matter jurisdiction over this matter pursuant to section 306(a) of PROMESA. Venue is proper pursuant to section 307(a) of PROMESA.

BASIS FOR RELIEF REQUESTED

2. Consistent with Section III.L. of the Case Management Procedures [Case No. 17-03283, ECF 8027-1], AAFAF and PREPA seek leave to file the one-page Sur-Reply, attached as

² The Financial Oversight and Management Board for Puerto Rico (“Oversight Board”), as PREPA’s representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”), has authorized the undersigned to file this Motion on behalf of PREPA.

³ Capitalized terms not otherwise defined herein shall have the same meanings given to them in the *Joint Response of the Financial Oversight and Management Board for Puerto Rico, and in its Capacity as Representative of the Puerto Rico Electric Power Authority, and the Puerto Rico Fiscal Agency and Financial Advisory Authority to the Official Committee of Unsecured Creditors’ Urgent (I) Objections to Magistrate Judge’s August 2, 2019 Order on Motion to Compel and (II) Alternative Motion to Strike and to Exclude Out-of-scope Declaration Testimony and Related Evidence* [ECF 1595].

Exhibit 1, to address certain misinterpretations regarding the context and significance of an email and attachment from a consultant from Filsinger Energy Partners (“FEP”), which the Committee raised for the first time in the Omnibus Reply in support of its contention that FEP should be required to designate a document custodian in connection with discovery on the 9019 Motion.

See Omnibus Reply ¶ 32 (citing Exhibit W [ECF 1602-2] (PREPA_RSA0026153, PREPA_RSA0026154)).

3. The Sur-Reply is brief (one page) and is tailored to addressing this one particular issue, raised for the first time on reply.

4. AAFAF and PREPA conferred with counsel for the Committee to request the Committee’s consent to the filing of the Sur-Reply. Counsel for the Committee does not object to AAFAF and PREPA’s filing of the Sur-Reply.

NOTICE

5. Notice of this motion has been provided to the following entities or their counsel: (i) the Committee and (ii) the Oversight Board.

CERTIFICATION

6. Pursuant to Local Bankruptcy Rule 9013-1 and paragraph I.H of the Case Management Procedures, AAFAF and PREPA hereby certify that they have (a) carefully examined the matter and concluded that there is a true need for an urgent hearing; (b) not created the urgency through a lack of due diligence; (c) made a bona fide effort to resolve the matter without a hearing; (d) made reasonable, good faith communications in an effort to resolve or narrow the issues being brought to the court; and (e) conferred with the affected parties, who do not oppose the relief requested herein.

WHEREFORE, AAFAF and PREPA respectfully request that the Court authorize AAFAF and PREPA to file the attached Sur-Reply.

Dated: August 23, 2019
San Juan, Puerto Rico

Respectfully submitted,

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